



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** ADA4258

**Objector:** A member of the public

**Admission authority:** London Borough of Hammersmith and Fulham for the community primary schools in its area

**Date of decision:** 27 June 2024

## Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2025 determined by the London Borough of Hammersmith and Fulham for the community schools in its area.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

## The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by a member of the public to the admission arrangements for September 2025 for the community primary schools in the local authority area of the London Borough of Hammersmith and Fulham (the arrangements). The London Borough of Hammersmith and Fulham (the local authority) is the admission authority for the community primary schools which mainly cater for children aged four to eleven (the schools). The objection is to the information provided on the admission of summer born children. The local authority and the objector are the parties to this objection.

## Jurisdiction

2. These arrangements were determined under section 88C of the Act by the local authority. The objector submitted her objection to these determined arrangements, and it was received by the Office of the Schools Adjudicator on 6 March 2024. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:

- a. a copy of the minutes of the meeting of the local authority at which the arrangements were determined and a copy of the determined arrangements including the form used for applying for admission outside the normal age group;
- b. the objector's form of objection and further comments;
- c. the local authority's response to the objection and the other matters I raised;
- d. Department for Education (DfE) guidance regarding the admission of summer born children (published 2023):
  - a. 'Summer born children starting school: advice for parents';
  - b. 'Making a request for admission out of the normal age group';
  - c. 'Guidance on handling admission requests for summer born children' (the DfE guidance for admission authorities); and
- e. information published on the websites for the local authority and the DfE.

## The Objection

4. The objection is to the information in the arrangements regarding the admission to school of children who reach compulsory school age between 1 April and 31 August and who therefore reach compulsory school age at the beginning of the autumn term following their fifth birthday. Such children are often referred to as a 'summer born children.' Section 8 of the Education Act 1996 and the Education (Start of Compulsory School Age) Order 1998 set out what constitutes compulsory school age. The Code also defines what is meant by the term "compulsory school age" in footnote 56 of the Code which says,

"A child reaches compulsory school age on the prescribed day following his or her fifth birthday (or on his or her fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March, and 31 August."

5. Footnote 57 of the Code defines the term “summer born children” and says,

“The term summer born children relates to all children born from 1 April to 31 August. These children reach compulsory school age on 31 August following their fifth birthday (or on their fifth birthday if it falls on 31 August). It is likely that most requests for summer born children to be admitted out of their normal age group will come from parents of children born in the later summer months or those born prematurely.”
6. The parents of a summer born child have the right to defer the admission of their child to school until after 31 August following the child’s fifth birthday, which would mean the child would be admitted to school in September of the year following the September when the child could have started school. For example, a summer born child may have the right to start full time education in September 2025, however the parent can postpone the child starting school until September 2026 when the child reaches compulsory school age. Such a child would join year 1 (Y1), unless the parent requests and the admission authority agrees, that the child should join in reception year (YR). I will refer to this as ‘admission out of the normal year group’.
7. A child’s parents can defer the date their child is admitted to the school until later in the school year, though not beyond the point at which the child reaches compulsory school age and not beyond the beginning of the final term of the school year for which the offer of admission was made. I will refer to this as ‘deferred entry’.
8. The objection is that the form provided by the local authority for parents to complete in order to request that their child is admitted to YR rather than Y1 (which is part of the admission arrangements) is unclear. This is because the form combines two matters, namely deferred entry and admission out of the normal year group, which are two separate concepts. Deferred entry is a right. Admission out of the normal age group is something which parents can request; the admission authority has discretion to decide whether such a request should be granted. In making such discretionary decisions, the admission authority must take into account the relevant provisions in the Code and the DfE guidance (unless the admission authority has a good reason to depart from the guidance).
9. Paragraphs 14 and 2.17 to 2.20 of the Code are relevant. Paragraph 14 says,

“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”
10. Paragraph 2.17 of the Code refers to deferred entry. This says,

“Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that where they have offered a child a place at a school:

a) that child is entitled to a full-time place in the September following their fourth birthday;

b) the child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and

c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age."

11. Paragraphs 2.18 – 2.20 of the Code refer to admissions out of the normal age group. Paragraph 2.18 of the Code says,

"Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group – to reception rather than year 1. Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group".

12. Paragraph 2.19 says,

"Admission authorities **must** make decisions on the basis of the circumstances of each case and in the best interests of the child concerned. This will include taking account of the parent's views; information about the child's academic, social, and emotional development; where relevant, their medical history and the views of a medical professional; whether they have previously been educated out of their normal age group; and whether they may naturally have fallen into a lower age group if it were not for being born prematurely. They **must** also take into account the views of the head teacher of the school concerned. When informing a parent of their decision on the year group the child should be admitted to, the admission authority must set out clearly the reasons for their decision."

13. Paragraph 2.20 says,

"Where an admission authority agrees to a parent's request for their child to be admitted out of their normal age group and, as a consequence of that decision, the child will be admitted to a relevant age group (i.e. the age group to which pupils are normally admitted to the school) the local authority and admission authority **must** process the application as part of the main admissions round, unless the parental request is made too late for this to be possible, and on the basis of their determined admission arrangements only, including the application of oversubscription criteria where applicable. They **must not** give the application lower priority on the basis that the child is being admitted out of their normal age group. Parents have a statutory

right to appeal against the refusal of a place at a school for which they have applied. This right does not apply if they are offered a place at the school, but it is not in their preferred age group.”

14. The DfE guidance to admission authorities says in relation to admission out of the normal year group:

- “• The admission authority of each school must make a decision based on the circumstances of the case and in the child’s best interests. It should be rare for an authority to refuse a parent’s request.
- An admission authority may not decide that a child should start school before compulsory school age - that is the parent’s decision.
- The government believes it is rarely in a child’s best interests to miss a year of their education, for example, by beginning primary school in year 1 rather than reception, or secondary school in year 8 rather than year 7.”

## Background

15. The local authority is the admission authority for 12 primary schools in its area and all are community primary schools. The oversubscription criteria for these schools are, in summary:

- 1) Looked after and previously looked after children
- 2) Children who have a medical or social need to attend a particular school
- 3) Siblings of pupils at the school
- 4) Children of staff employed at the school
- 5) Distance of the home from the school with those living closer having the higher priority.

## Consideration of Case

16. The arrangements clearly state the right of parents to defer the admission of their child until the child has reached compulsory school age in the normal year of admission. However, the arrangements then have a section headed, “Requests to apply for Reception in the following year”. This section says:

“Requests for admission outside of the child’s chronological year of entry will be considered in accordance with para. 2.18 (Admissions Code). Such requests would normally apply to children that are Summer born (between April and August) and there are significant reasons that would benefit the child’s academic, social and emotional development by starting reception in the following year as opposed to

Year 1. The Council, as the admission authority for community schools (or the governing body for the academies), must make decisions based on the circumstances of each case, informing parents of their statutory right to appeal. The headteacher of each of the school(s) applied for will be informed of the request and their views considered. This right to request a later admission, does not apply if the child is offered a place in another year group at the school. Each case will need to be supported by a professional (e.g. GP, social worker) that provides the reason for admissions outside of the chronological year group.

Parents seeking admission outside of their child's chronological year of entry must complete an application form which is available on the Council's School Admissions (starting school) web page ([www.lbhf.gov.uk/schooladmissions](http://www.lbhf.gov.uk/schooladmissions)), submit this along with any evidence to support their request. Any such request will be considered by a panel that may include the following:

- Head teacher of the school
- early years professional
- educational psychologist
- admissions officer".

17. The obligation upon admission authorities imposed by the Code in terms of the content of their admission arrangements is that they must make clear in their arrangements the process for requesting admission out of the normal age group. The DfE guidance is helpful in the interpretation of what the process must comprise. It says:

"Admission authorities should ensure parents:

- are aware of when and how they can make requests
- know what information they need to provide
- know the outcome of their request in time to make an informed decision about whether their child will start school before compulsory school age".

18. The guidance says that it is for local authorities and admission authorities to decide what their process should be. However for primary schools there is a recommendation that the process being used:

- "expects parents to make an application for a school place in their child's normal age group at the usual time
- enables parents to submit a request for admission outside the normal age group at the same time

- ensures parents receive the response to their request before primary national offer day.”

19. My view is that, in order to be sufficiently clear, the arrangements also need to describe the factors which are taken into account in making a decision so that parents will know what information they need to provide. Both the Code and the DfE guidance make clear that the admission authority of each school must make decisions based on the circumstances of the case and in the child’s best interests.

20. However, the DfE guidance goes further in suggesting that it should be rare for an authority to refuse a parent’s request for their summer born child to be admitted outside the normal year group; that the parent has discretion in deciding when their child starts school where the child is below compulsory school age; and that it would rarely be in a child’s best interests to miss a year of their education, for example, by beginning primary school in Y1 rather than YR. The DfE guidance does not impose mandatory requirements in the same way as the Code or primary or secondary legislation. The purpose of government guidance is to explain how the law should be interpreted, and admission authorities are expected to follow DfE guidance which applies to them unless (as mentioned above) they have a good reason to depart from it.

21. It is important that I explain the role of the Schools Adjudicator and the limitations of that role. My function under the Act is to determine the objection before me. In so doing, I must determine whether the admission arrangements comply with the Code. I have no role in the enforcement of whether the procedures followed by admission authorities are compliant with the DfE guidance. My role is confined to ensuring that whatever is said in a set of admission arrangements complies with the Code. Having said that, there is a general requirement that admission arrangements must be reasonable and, in my view, arrangements which describe a process for requesting admission out of the normal age group, which is contrary to DfE guidance, are unreasonable.

22. The arrangements are contrary to the DfE guidance insofar as they imply that the onus is on the parent to make a credible case that their child should be admitted out of the normal age group based upon the evidence of professionals, whereas the DfE guidance makes clear that such decisions should be made based upon the child’s best interests and that it would rarely be in the best interests of a summer born child to start school in Y1 as opposed to in YR. Accordingly, it could be said that the arrangements under consideration are indicative of a process which is contrary to the DfE guidance (and so arguably not a process which the admission authority should be following). They are therefore unreasonable and misleading to parents. I will set out my reasons for this conclusion.

23. The arrangements state that there would have to be, “significant reasons that would benefit the child’s academic, social and emotional development by starting reception in the following year as opposed to Year 1”. This is not in line with the DfE guidance. It is not clear that the decision to admit to YR rather than Y1 is made in the best interests of the child, nor is account taken of the fact that the DfE guidance states that “The government believes it is

rarely in a child's best interests to miss a year of their education, for example, by beginning primary school in year 1 rather than reception".

24. More pertinently, the arrangements are misleading in not making it sufficiently clear to parents that the local authority's decisions will be based on the best interests of the child. Indeed, the arrangements imply that missing YR will not be important to most children. Or in other words, it would be unusual, as "significant reasons" would be needed, for a request for the summer born child to join YR rather than Y1 to be agreed.

25. In my view, the arrangements give the impression that there is a blanket expectation that for most summer born children who begin school when they reach compulsory school age, it would be better to join Y1 rather than YR.

26. The arrangements say, "This right to request a later admission, does not apply if the child is offered a place in another year group at the school." I have no idea what is meant by this statement. Possibly, the intention was to say that the right to an appeal does not arise where a child is offered a place at the school but not in the year group the parent has requested. In any event, the statement as it stands is meaningless therefore the arrangements are unclear contrary to paragraph 14 of the Code.

27. The arrangements refer to a form to be used by parents making requests for admission out of the normal year group and provide a link to it. This form is called the "School admission deferral request form". The form says,

"This form is to be used by an applicant seeking to defer the entry of their child to school either to later in the same academic year when the child becomes of compulsory school age or to the following academic year when the child should normally be in year 1. Please complete all parts, indicating all the schools you are requesting to consider your deferment request. Additionally, for those requesting deferment to the next academic year, you must provide social or medical evidence to support your request. Note that each school will have to consider the request and decide.

28. The form therefore has two purposes.

28.1. One is for deferred entry as in when a parent decides that their child will start school in YR in the normal age group when the child reaches compulsory school age (or sooner in the case of a summer born child).

28.2. The second is for when the parent of a summer born child is considering delaying the admission of the child until the child reaches compulsory school age and wishes to request that their child is admitted to YR rather than Y1.

29. Combining these two matters in one form leads to the arrangements being unclear because it implies that the same process is used for deferred admissions as is used for determining whether a child should be admitted outside the normal year group. This lack of



clarity is caused by the word 'deferment' being used to describe two processes which are entirely separate. I therefore uphold this part of the objection.

30. There are further several factors to unpick here. I will start with the title: 'School admission deferral request form'. As above, paragraph 2.17b) says that the arrangements **must** make it clear that a parent can decide that their child does not start school until the child reaches compulsory school age. The use of the word, request, implies that a request is needed to defer entry to YR until compulsory school age, and thus the request can be denied. The wording of the form's title is misleading, and therefore unclear, and does not meet the requirements of paragraphs 14 and 2.17. The arrangements do not make clear that parents have the right to defer entry of their child, or for their child to attend on a part-time basis, until the child reaches statutory school age.

31. The form, as above, says that parents "must provide social or medical evidence to support your request". It is the use of the word, 'must' to which objection is made. Paragraph 2.19 of the Code says that a wide range of matters should be taken into account and, as above and repeated here for emphasis, "where relevant, [the child's] medical history and the views of a medical professional". The use of the term, 'where relevant', means that such evidence will not be relevant in all cases, and it creates confusion for the arrangements to say that it 'must' be provided. The arrangements are misleading and therefore unclear in this regard and do not meet the requirements of paragraphs 14 and 2.19 of the Code.

32. I am pleased that having had this matter brought to its attention, the local authority has expressed its intention to amend the arrangements and the form in order to address the issues highlighted above. I make no comment on the wording that the local authority is considering and expect it to be sure that the requirements of the Code will be met by the changes it makes.

## Other Matters

33. I brought to the local authority's attention other matters that I thought did not, or may not, conform with requirements relating to admissions and I consider these below. The local authority has responded to all the matters I have raised and expressed its intention to address these matters except where I have commented below. This is appreciated.

### Publication of the arrangements

34. I became aware of the arrangements for 2025 due to the objection made and sought to find the arrangements on the local authority's website. I checked for them on several occasions including 21 March 2024 and could not find them. The arrangements were not published on the local authority's website by 15 March 2024 as required by paragraph 1.50 of the Code, although I have seen them on the website since.

## Clarity of oversubscription criterion 4

35. Paragraphs 1.39 to 1.40 of the Code say:

“ 1.39 Admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the following circumstances:

a) where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made; and/or

b) the member of staff is recruited to fill a vacant post at the school for which there is a demonstrable skill shortage.

1.40 Admissions authorities **must** specify in their admission arrangements how this priority will be applied, for example, which groups of staff it will apply to.”

36. The fourth oversubscription criterion is

“Children whose parent is a qualified teacher for a minimum of 0.6fte (16.5 hours teaching staff) who has been employed at the school concerned for two or more years at the time of application and/or children of a member of staff who has been recruited to fill a vacancy for which there is a demonstrable skill shortage.”

37. It is clear that a child whose parent “is a qualified teacher for a minimum of 0.6fte (16.5 hours teaching staff) who has been employed at the school concerned for two or more years at the time of application” would meet the criterion.

38. However, it is less clear whether the child “of a member of staff who has been recruited to fill a vacancy for which there is a demonstrable skill shortage” has also to be a qualified teacher or whether this includes any member of staff (teaching assistant or caretaker for example). It is also unclear whether the previous description of a minimum of contractual hours applies.

39. The local authority said, “It appears to the local authority that this is clear and fair. The minimum contract period applies only to teaching staff while the requirement for demonstrable skill shortage applies to all staff member[s], e.g. caretaker. It is clear from [paragraph] 1.40 of the Code that it is up to the admission authority how the priority will be applied.”

40. I agree that it is open to the admission authority to determine that any member of staff employed at the schools can meet this second part of the criterion. My concern regards clarity. It would be understandable for a parent to be unsure whether the second part related to the first part as there is no definition of “a member of staff” whereas the first part of the description is very specific. If the second part referred to ‘any member of staff employed at the school’, for example, then it would be clear that the second part does not only mean qualified teachers.

41. The second part of the oversubscription criterion is not clear. The requirements of paragraph 1.40 of the Code are not met as the groups of staff to which this priority applies are not specified. Paragraph 14 of the Code requires that admission arrangements are clear and paragraph 1.8 requires that oversubscription criteria are clear. Therefore the arrangements do not meet the requirements of paragraphs 14, 1.8 and 1.40 of the Code.

### **Admission of children of a multiple birth**

42. The arrangements say, “Where it has not been possible to offer a place in reception, or any other year group to a child of a multiple birth, priority will apply within the sibling category”. I did not understand what this meant. The local authority said, “The rationale for this was [to] avoid a situation where a school has to offer [an] unreasonable number [of places] above their PAN. This situation had developed some years back in one of our schools...where the school had to offer 4 above their number. The essence of this therefore is that where the last place available goes to a child in a multiple birth, the authority will offer the multiple birth children on the basis of sibling link.” The local authority agreed that this section could be clearer and that it would amend it. As it stands, the section is not clear and so does not meet the requirement for clarity in paragraph 14 of the Code.

### **Part time attendance before reaching compulsory school age**

43. Paragraph 2.17c) of the Code says,

“The authority **must** make it clear in their arrangements that where they have offered a child a place at a school:... c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.”

44. Paragraph 6.4 of the arrangements says, “Parents can also request that their child attends part-time until he/she reaches compulsory school age.”

45. The use of the term, ‘request’ in the arrangements makes it appear that parents have to request permission that their child attends part-time as opposed to having the right to decide to do this. Therefore the arrangements are not clear and do not comply with paragraphs 14 and 2.17c) in this regard and will need to be revised.

### **Admission outside their normal age group**

46. Paragraph 2.18 of the Code says,

“Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health...Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.”

47. The information on admission outside the normal age group appears to only apply to summer born children whose parents wish them to be admitted to YR a year later than such

a child would normally be admitted (rather than Y1). There is no information on the process for a child whose parent seeks a place in a higher year group than the normal age group (for example a child who is gifted and talented) or for an in-year admission out of the normal age group; an example could be where a parent of a child who would normally be in year four wishes their child to join year 3 or year 5. The arrangements are not clear and do not meet the requirements of paragraphs 14 and 2.18 of the Code.

## Waiting lists

48. Paragraph 2.15 of the Code says, as far as is relevant here,

“Each admission authority **must** maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission”.

49. The information on the waiting list does not make it clear that the waiting list will be maintained until at least 31 December. If the waiting list is not maintained until 31 December, the arrangements do not comply with the requirement in paragraph 2.15 of the Code. The arrangements also do not make it clear how long the waiting list is maintained for, therefore they also do not meet the requirements of clarity in paragraph 14 of the Code.

## Determination

50. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2025 determined by the London Borough of Hammersmith and Fulham for the community schools in its area.

51. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

52. By virtue of section 88K(2) the adjudicator’s decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 27 June 2024

Signed:

Schools Adjudicator: Deborah Pritchard